Minute No. 83
Report - Standing Policy Committee on Property and Development - December 2, 2003

Item No. 7 Subdivision and Rezoning - 550 Kenaston Boulevard
File DASZ 23/2003

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the plan of subdivision proposed under File DASZ 23/2003 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File DASZ 23/2003 dated October 28, 2003, for registration in the Winnipeg Land Titles Office, subject to the following:

    A. That the Developer be required to enter into a Servicing Agreement with the city requiring the Developer to pay their share of the cost of the existing underground service in Grant Avenue on the basis of current Local Improvement Levies.

2. That Zoning Agreement File DAZ 240/82 (Caveat No. 83-34076) be withdrawn.

3. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

4. That The Winnipeg Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File DASZ 23/2003 dated October 28, 2003, to a "C2" Commercial District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to apply to the Consolidated Parcels "B" and "C" on Schedule "A", to include the following conditions:

    A. That prior to the issuance of a development permit, plans showing the site access and layout, building location and interiors/elevations including exterior materials, fencing, landscaping, garbage enclosures, loading areas and loading docks, site and building exterior lighting, sound attenuation structures and equipment, and site signage be submitted, where applicable, for the approval of the City Centre Community Committee.

    B. That the use of land be restricted to the following:

        i. Supermarket/department store, including accessory and ancillary uses
        ii. Gas bar

Report - Standing Policy Committee on Property and Development - December 2, 2003

COUNCIL DECISION (continued)

C. That all building and site lighting be full cut-off.

D. That no facia signage be permitted on the east and south walls of the supermarket or principal building and that no free-standing signage be located between the east wall of the supermarket building and the east property limit.

E. That a six (6) foot six (6) inch ornamental privacy fence be erected/maintained along the east and south property limits and kept in good appearance and condition.

F. That a building setback of twenty-five (25) feet be provided from the east property limit and twenty (20) feet from the north and south property limits, and that outside storage be prohibited in these yards.

G. That all site runoff from the land be directed into a storm drainage system in accordance with plans approved by the Director of Water and Waste and that no storm drainage works be constructed on the land involving any direct drainage to land drainage facilities in Kenaston Boulevard and Grant Avenue.

H. That business hours on the land be restricted to between the hours of 8:00 a.m. and 10:00 p.m. daily.

I. That garbage removal be prohibited between the hours of 11:00 p.m. and 8:00 a.m. daily.

J. That the loading zone, garbage compactors and HVAC mechanical units be sound attenuated in accordance with a plan stamped by a certified technician.

5. That a ten percent (10%) dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.

6. That in the event the application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of the report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

Report - Standing Policy Committee on Property and Development - December 2, 2003

COUNCIL DECISION (continued)

7. That the City Solicitor/Manager of Legal Services be requested to prepare the necessary by-law in accordance with the above.

8. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Development Agreement.

9. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office and the Zoning Agreement has been filed by caveat as a first charge in the Winnipeg Land Titles Office against those lands provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.

10. That the Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

11. That in the event that the necessary City of Winnipeg mylar approval signatures have not been secured within twenty-four (24) months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

Report - Standing Policy Committee on Property and Development - December 2, 2003

DECISION MAKING HISTORY:

Moved by Councillor Vandal,

That the recommendation of the Standing Policy Committee on Property and Development be adopted.

The motion for adoption of the item was put.

Councillor Gerbasi called for the yeas and nays which were as follows:-

Yea: Councillors Eadie, Clement, De Smedt, Steek, Vandal, Wyatt, Lazarenko and O'Shaughnessy. 8

Nay: Councillors Gerbasi, Pagtakhan, Steeves and Thomas. 4

and the motion for adoption of the item was declared carried.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 10, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On December 2, 2003, the Standing Policy Committee on Property and Development did not concur in the recommendation of the City Centre Community Committee and concurred in the administrative recommendation, as amended, namely:

- Recommendation 4.B.i.
  Add the words "/department store" after the word "Supermarket"

- Recommendation 4.D.
  Delete the words "That 3rd party advertising signage be prohibited on the lands following the expiration of the lease agreement for the existing billboard on Grant Avenue,"

- Recommendation 4.I.
  Delete the words "and store loading",

and submitted the matter to the Executive Policy Committee and Council.

DECISION MAKING HISTORY: (continued)

COMMUNITY COMMITTEE RECOMMENDATION:

On November 4, 2003, the City Centre Community Committee did not concur in the administrative recommendation and recommended to the Standing Policy Committee on Property and Development that the subdivision and rezoning proposed under File DASZ 23/2003 not be proceeded with.

RE: **Rezoning - 550 Kenaston Boulevard**
File DASZ 23/2003

For submission to: **Standing Policy Committee on Property and Development**

Prepared by: **Josie Marques, Clerk,**
City Centre Community Committee

Report date: **November 14, 2003**

COMMUNITY COMMITTEE RECOMMENDATION:

On November 4, 2003, the City Centre Community Committee did not concur in the administrative recommendation and recommends to the Standing Policy Committee on Property and Development that the subdivision and rezoning proposed under File DASZ 23/2003 not be proceeded with.

The City Centre Community Committee provided the following supporting reason for its recommendation:

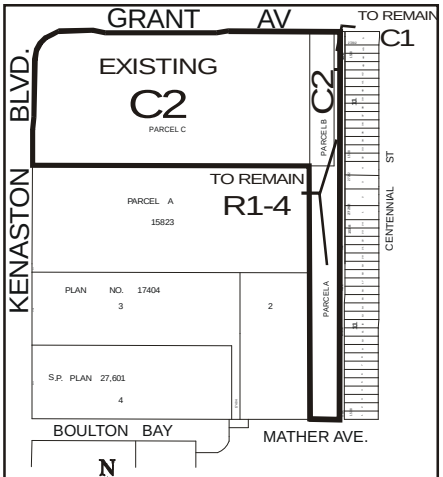
1. The City Centre Community Committee recognized the opposition to this application by the area residents.

PUBLIC HEARING SUMMARY

File: DASZ 23/2003

Applicant: Pollock and Wright Land Surveyors (Jim Watling)

Subject:



APPLICANT : POLLOCK AND WRIGHT LAND SURVEYORS

FILE : DASZ 23/03

PROPOSAL : An application for the approval of the plan of subdivision shown outlined above as may be determined by Council and for a proposed zoning change to By-law No. 6400/94 by rezoning the land shown outlined above from an "R1-4" SINGLE-FAMILY DISTRICT and a "C1 COMMERCIAL DISTRICT to a "C2" COMMERCIAL DISTRICT to allow for consolidation with the existing commercial land to the west. **For information, phone Mr. R. Mitchell, Planner at 986-5017.**

Premises Affected: 550 Kenaston Boulevard

Exhibits Filed:

1. Application dated July 14, 2003
2. Notification of Public Hearing to Applicant dated August 6, 2003
3. Extract from Atlas Sheet AE20
4. Report from the Manager of Planning and Land Use dated September 1, 2003
5. Photograph(s) of the Site and Inspection Notice
6. Communication received September 9, 2003, in opposition to the application from Gerald and Margaret Mazur and Robert and Nel Mazur
7. Communication dated September 9, 2003, in opposition to the application from Julie Nybakken
8. Communication dated August 29, 2003, in opposition to the application from Phyllis and Joe Doran addressed to His Worship Mayor Murray
9. Communication dated September 9, 2003, from Helen Reid and Allan Reid in opposition to the application
10. Communication dated September 9, 2003, from Karen Reimer in opposition to the application
11. Communication dated September 8, 2003, from Edward R. Allden and Donna J. Allden in opposition to the application
12. Communication dated September 8, 2003, from Gail Henry in opposition to the application
13. Communication dated September 8, 2003, from Theoddra Wire in opposition to the application
14. Communication dated September 8, 2003, from Wilma Taylor in opposition to the application
15. Communication dated September 9, 2003 from Joseph R. Remus, in opposition to the application
16. Communication dated September 8, 2003, from Anne Tuchiwsky in opposition to the application
17. Communication dated September 9, 2003, from Dorothy Lother in opposition to the application
18. Communication dated October 7, 2003, from Lillian Buckler in opposition to the application
19. Report from the Manager of Planning and Land Use dated October 28, 2003
20. Letters in opposition to the application submitted by Phyllis Doran
21. Communication dated November 4, 2003, from Barry Pask in opposition of the application

22. Letter in opposition to the application from Linda Tuchiwsky, submitted by Phyllis Doran.
23. Copy of report entitled Railways in Winnipeg: Tracking the Future Towards 2020, submitted by Craig Mitchell.

REPRESENTATIONS:

In Support:

Bruce Andrews
Albert G. Degner, Pollock and Wright Land Surveyors
Ailyson Linklater

In Opposition:

Winn Adair
Edward R. and Donna J. Allden
Doreen Baddon
Mel and June Berg
Eric Braekevelt
Lillian Buckler
Joe and Phyllis Doran
Trish Drozdowski
Douglas and Catherine Geddes
Joyce Gorzen
Lee Habert
Gail Henry
Barry Hiebert
Betty Helena Humphreys
Ken Klassen
James A. and Marguerite Logan
Dorothy Lother
Deborah Anne Lupien
Luigi Mandarino
Gerald and Margaret Mazur and Robert and Nell Mazur
Craig Mitchell
Arleigh Morris
William Morris
Wade Nybakken
Julie Nybakken,
Barry Pask

Helen and Allan Reid
Karen Reimer
Joseph R. Remus
Nancy Schenkeveld
Harry G. and Andrée H. Stein
Wilma Taylor
Anne and Linda Tuchiwsky
Theoddra Wire
Donna Mae Yeo

For Information:

Jason Chipongian
Don and Mary Killbery
Jerry Weir

For the City:

Ross Mitchell, Senior Planner, Planning, Property and Development Department

SUMMARIZATION OF REPRESENTATIONS AND SUBMISSIONS
MADE AT THE PUBLIC HEARING

October 7, 2003

No representations were heard inasmuch as the City Centre Community Committee adjourned the Public Hearing with respect to this application prior to opening representations.

September 9, 2003

No representations were heard inasmuch as the City Centre Community Committee adjourned the Public Hearing with respect to this application prior to opening representations.

November 4, 2003

Albert G. Degner, Pollock and Wright Land Surveyors, appeared in support of the application and gave a brief overview of the application.

Bruce Andrews appeared in support of the application. Mr. Andrews stated concerns with the administrative recommendations and specifically requested that the words "department store" be included in Recommendation 4.B.i, "That 3rd party advertising signage be prohibited on the lands following the expiration of the lease agreement for the existing billboard on Grant Avenue," be deleted in Recommendation 4.D.; and "store loading" be deleted from Recommendation 4.I.

The Senior Planner stated that the administration was supportive of the requested amendments.

Councillor Steek inquired as to the green space on the east side of the development and its landscaping.

Bruce Andrews stated that they were working with city staff on the matter and were looking for guidance on the issue.

The Senior Planner provided further clarity by referring to a site map.

James A. Logan appeared in opposition to the application. Mr. Logan stated concerns with the height of the development and the affects on sunlight, noise from the air conditioners and heaters, where the loading zones were to be located, the consequences of trucks idling as in pollution and noise, the increased runoff on the sewer systems, traffic problems at the intersection, the loss of greenspace in the area, and the vibration the construction would create when driving piles into the ground. He also stated concerns with the fiber optic lines that had been placed in the area having to be moved, parking and garbage. He inquired as to studies having been done on hazardous materials in the area and why the application had been adjourned twice. He further stated that there needed to be clarification on what the development entailed and suggested the applicant consider a new location.

Councillor Smith inquired if Mr. Logan had had any discussion with the store as to the problems.

Mr. Logan stated no.

Phyllis Doran appeared in opposition to the application. Mrs. Doran stated that the store was already too big and very close to residential properties. She also stated that the store was not taking care of the area now as there was a lot of garbage and odours from it. She further stated that the development should be done very carefully and respecting the will of people in the area. She read a letter in opposition to the application from Linda Tuchiwsky filed as Exhibit 22.

Ken Klassen appeared in opposition to the application. Mr. Klassen inquired as a better solution for the area residents and the store and suggested another location. Discussion ensued as to Plan Winnipeg and the possibility of a transportation corridor in the future. He also inquired as to preserving the site as greenspace. He further stated that the community does not want this development.

Councillor Gerbasi inquired as to what options Mr. Klassen had.

Mr. Klassen stated relocating the store.

Councillor Steek stated that the issue before Community Committee was the subdivision and rezoning of the land.

Mr. Klassen stated that the application should be consistent with Plan Winnipeg.

The Senior Planner stated that the administration was supportive of the application because the development was doable and took into consideration landscaping and sound barriers.

Barry Pask appeared in opposition and submitted a written presentation filed as Exhibit 21. Mr. Pask stated that he would like to see the store relocate, but did not have objections to commercial development.

Craig Mitchell appeared in opposition to the application . Mr. Mitchell sated concerns with the number of large stores now in the area as with garbage and noise. He also stated that he was supportive of leaving the area as greenspace. He submitted a copy of report entitled Railways in Winnipeg: Tracking the Future Towards 2020, filed as Exhibit 23.

Lee Habert appeared in opposition to the application. Mr. Habert stated he would rather see a bike path in the area.

Jerry Weir appeared for information. Mr. Weir stated concerns with the removal of the prohibition of hours of operation as people lived close to the loading zoning. He also stated concerns with the fact that only part of the land was being developed because the remainder would be landlocked. He further stated that he would like to see the land landscaped rather than as a vacant lot it is now.

Councillor Steek inquired as to what concerns Mr. Weir had with the store as to how they had conducted their business to date.

Jerry Weir stated that the store was large and there had been some problems with garbage, although not overwhelming. He also stated that the restrictions on the development were needed.

Councillor Gerbasi inquired as to what kind of impact Mr. Weir thought the expansion would have.

Jerry Weir stated that there would be more problems. He inquired as to what would move into the site if the store moved. He also stated that he was opposed to the restrictions being removed.

The Senior Planner stated that there were no prohibitions on store operations, loading or garbage removal. He stated that the City of Winnipeg Charter allows for the imposing of restrictions. He

also stated that the store operation hours and garbage pick up restrictions were being maintained. He further stated that it was the overnight loading restriction that were being removed and that the applicant had agreed to hire a sound engineer to deal with the noise concerns.

William Morris appeared in opposition to the application. Mr. Morris stated concerns with the fact that the land would be landlocked with access through a residential area.

In rebuttal Mr. Bruce Andrews stated that they would have sound attenuation on the walls and fences, as they have done at other locations. He stated that he would look into the concerns with regards to garbage with the store. He also stated the willingness to work with the city and residents in resolving these issues.

Albert G. Degner stated that the land was up for sale and reiterated the purpose of application. He stated that the reason the application was made was because of the extra 28 feet they wanted and that if not for that, they would not need to make an application.

Councillor Steek reiterated the concerns raised with application. He stated that there was a requirement for heavy landscaping and noise buffers.

Exhibit "4" referred to in File DASZ 23/2003

In reply please refer to / Référence à rappeler :

Ross Mitchell
(204) 986-5017
Fax / Téléc. : (204) 986-3684

File No. DASZ 23/03
Our c/f CP 500 (.618)

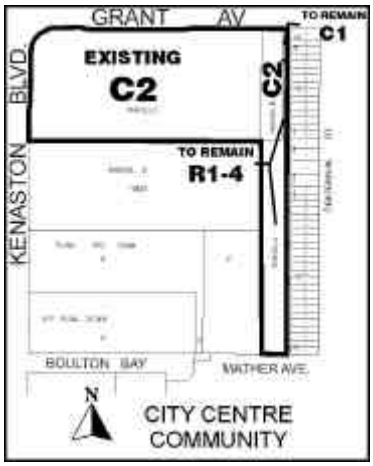
September 1, 2003

Ms. Carol Freeman, Clerk
City Centre Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Freeman:

SUBDIVISION AND REZONING
Land located on the south side of Grant east of Kenaston.
City Centre Community
File No. DASZ 23/03

An application has been received from Pollock and Wright (Jim Watling) for approval of a plan of subdivision and related zoning change to Zoning By-Law No. 6400/94 by rezoning the subject lands from an "R1-4" Single-Family Residential District and a "C1" Commercial District to a "C2" Commercial District to permit the expansion of an existing supermarket.



RECOMMENDATION:

It is recommended that this item be laid over to the October 7 meeting of the Committee thereby enabling the property owner, Loblaw Properties Inc., sufficient time to submit drawings indicating how the rail line may be developed in conjunction with the existing Superstore site.

Yours truly,

C. Knoll
Manager of Planning and Land Use

_____

Per: Ross Mitchell, Senior Planner
(City Centre and Assiniboia Communities)
986-5017

/jc

Exhibit "19" referred to in File DAZ 23/2003

In reply please refer to / Référence à rappeler :

Ross Mitchell
(204) 986-5017
Fax / Téléc. : (204) 986-3684

File No. DASZ 23/03
Our c/f CP 500 (.618)

October 28, 2003

Ms. Josie Marques, Clerk
City Centre Community Committee
Council Building
510 Main Street
Winnipeg, MB R3B 1B9

Dear Ms. Marques:

SUBDIVISION AND REZONING
Land located on the south side of Grant east of Kenaston.
City Centre Community
File No. DASZ 23/03

An application has been received from Pollock and Wright (Jim Watling) for approval of a plan of subdivision and related zoning change to Zoning By-Law No. 6400/94 by rezoning the subject lands from an "R1-4" Single-Family Residential District and a "C1" Commercial District to a "C2" Commercial District to permit the expansion of an existing supermarket.



SITE DESCRIPTION:

Site Area: 73 feet of width and 404 feet of depth for an area of 29,492 square feet.

Existing Land Use and Zoning: Abandoned CN rail right-of-way zoned "C2" (west half) "R1-4" and "C1" (east half).

Surrounding Land Use and Zoning:

The site is located in the residential neighbourhood of Mathers. To the north, across Grant, is located the Kenaston Village Mall zoned "C2" and a small commercial building containing Subway and Fabutan zoned "C1" at the northwest corner of Centennial and Grant. To the east of the site, across a public lane, is located a 2-storey, multi-tenant commercial building at the southwest corner of Centennial and Grant zoned "C1", and single-family houses fronting Centennial zoned "R1-4". To the south of the site is the remainder of the CN Oak Point rail line running down to Mathers Avenue. The east half of this portion of the rail line is zoned "R1-4", while the west have is zoned "RM-3" adjacent to The Ponds townhouse development, and "PR-1" adjacent to the Joe Malone Park.

DEVELOPMENT DESCRIPTION:

The proposal is to subdivide a portion of the abandoned rail line for consolidation with the larger Westfair Superstore site to the west. The portion of the rail line acquired by Westfair would be zoned "C2" to enable the possible future expansion of the Superstore. The lands retained by CN would keep their present zoning.

The subdivided portion measures 73 feet wide along Grant by a depth of 404 feet, corresponding to the depth of the supermarket site as measured south from Grant. The rail line is 90 feet wide, which means a strip of land with a width of 17 feet and a depth of 404 feet will remain between the east limit of the expanded supermarket site and the west limit of the Centennial public lane. The purpose of this strip of land was not made clear by the applicant, but it is labelled "lane" on the Westfair site plan described below. This indicates that the CNR or future owner would consider using it for vehicular access to the remainder of the rail line between the south limit of the Superstore and Mathers, possibly in combination with the adjacent, 16-foot public lane serving houses on the west side of Centennial Street. However, CN's intention for the remainder of the rail line south to Mathers Avenue had not been made clear at time of writing. Any proposal to develop the balance of the lands would require a public hearing.

Westfair has submitted a site plan showing a proposal for using the additional land. The plan shows the entire east wall of the existing store moved 67.5 feet to the east, gaining 22,858 square feet of interior store space. The loading docks (3) would remain in their current location at the

northeast corner of the store. The site plan shows two garbage compactors, one located on the north wall beside the loading area and the other located on the east wall midway between the loading docks and the southeast corner of the addition. The balance of the land is paved for a service lane around the back of the store and parking for 5 vehicles beside the loading area. For access to the loading docks, trucks would continue to enter the site off Kenaston, proceeding along the south and east sides of the building and backing into the loading docks. Trucks then leave the site via Grant.

The existing store has a gross floor area of 86,535 square feet. The proposed addition would boost the gross floor area to 109,393 square feet. The site provides parking for 502 vehicles. The by-law requirement, with the proposed addition, would be 494 vehicles. It is noted, however, that the zoning by-lay requires a 10-foot landscaped yard where a commercial district abuts a residential district. Therefore, the proposed site plan would have to be altered, or the by-law amended, to permit the development as proposed.

PLAN WINNIPEG:

The application complies with Plan Winnipeg in that the site is designated Neighbourhood Policy Area wherein commercial rezonings are permitted.

ADMINISTRATIVE COMMENTS:

The CNR was willing to sell the Oak Point Subdivision rail right-of-way to the City of Winnipeg. Failing the completion of the sale, the CNR was and is entitled to make the necessary applications for disposal and development of the lands. The Planning and Land Use Division is obligated to review these development applications based on their individual merits and immediate land use impacts. The Division supported similar applications – to develop the right-of-way by expanding adjacent commercial districts-- on the south side of Academy (DASZ 14/03) and on the north side Grant (DASZ 13/03). The Division is likewise prepared to support the current application on the basis of the following:

- The proposed development is appropriate given the site location at the intersection of two Regional Streets.
- The proposed development is aimed at improving store operations and will not markedly intensify commercial activity on the site, especially given the proximity of competitors at Kenaston and McGillivray, and in view of Westfair's plans to construct a new Superstore at St. James and Sargent.
- The adjacent housing to the east, on the west side of Centennial, will have a separation space of 33 feet from their west property limit to Westfair's east property limit. The distance between the west wall of the houses and the east wall of the store is in the order of 100 feet.

- The Division will be recommending sound attenuation for the loading zone, garbage compactors, and roof-top mechanical elements.
- The Division will be recommending a prohibition on overnight garbage removal and store loading.
- The Division will be recommending that ornamental fencing be erected along the store's east property limit to screen the proposed development.
- The Superstore provides a neighbourhood service and any improvements in its operation will benefit area residents.

RECOMMENDATION:

I. That the plan of subdivision proposed under File No. DASZ 23/03 be approved for preparation as a plan of subdivision by a Manitoba Land Surveyor in accordance with Schedule "A" for File No. DASZ 23/03, attached hereto and dated October 28, 2003, for registration in the Winnipeg Land Titles Office, subject to the following:

B. That the Developer be required to enter into a Servicing Agreement with the city requiring the Developer to pay their share of the cost of the existing underground service in Grant Avenue on the basis of current Local Improvement Levies.

II. That Zoning Agreement DAZ 240/82 (Caveat #83-34076) be withdrawn.

III. That the Director of Planning, Property and Development be authorized to certify any documents in connection therewith.

IV. That Zoning By-Law No. 6400/94 be amended by rezoning the subject land as shown on Schedule "A" for File No. DASZ 23/03, attached hereto and dated October 28, 2003, to a "C2" Commercial District, subject to the applicant entering into a Zoning Agreement with the City pursuant to Section 240 (1) of The City of Winnipeg Charter to apply to the Consolidated Parcels "B" and "C" on Schedule "A", to include the following conditions:

K. That, prior to the issuance of a development permit, plans showing the site access and layout, building location and interiors/elevations including exterior materials, fencing, landscaping, garbage enclosures, loading areas and loading docks, site and building exterior lighting, sound attenuation structures and equipment, and site signage be submitted, where applicable, for the approval of the City Centre Community Committee.

L. That the use of land be restricted to the following:

- Supermarket, including accessory and ancilliary uses
- Gas bar

M. That all building and site lighting be full cut-off.

N. That 3rd party advertising signage be prohibited on the lands following the expiration of the lease agreement for the existing billboard on Grant Avenue, that no facia signage be permitted on the east and south walls of the supermarket or principal building and that no free-standing signage be located between the east wall of the supermarket building and the east property limit.

O. That a 6'6" ornamental privacy fence be erected/maintained along the east and south property limits and kept in good appearance and condition.

P. That a building setback of 25 feet be provided from the east property limit and 20 feet from the north and south property limits, and that outside storage be prohibited in these yards.

Q. That all site runoff from the land be directed into a storm drainage system in accordance with plans approved by the Director of the Water and Waste Department, and that no storm drainage works be constructed on the land involving any direct drainage to land drainage facilities in Kenaston Boulevard and Grant Avenue.

R. That business hours on the land be restricted to between the hours of 8:00 a.m. and 10:00 p.m. daily.

S. That garbage removal and store loading be prohibited between the hours of 11:00 p.m. and 8:00 a.m. daily.

T. That the loading zone, garbage compactors and HVAC mechanical units be sound attenuated in accordance with a plan stamped by a certified technician.

V. That a 10 percent dedication be made by a payment of a sum of money to the City in lieu of the requirement for land dedication based on the increase in market value of the land.

VI. That, in the event this application is not proceeded with expeditiously and the by-law is not enacted within twenty-four (24) months after adoption of this report by Council, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

VII. That the City Solicitor be requested to prepare the necessary by-law in accordance with the above.

VIII. That the subdivision section of the by-law shall come into force and effect upon execution by the City of Winnipeg of the Development Agreement.

IX. That the zoning section of the by-law shall come into force and effect when the Plan of Subdivision has been registered in the Winnipeg Land Titles Office and the Zoning Agreement has been filed by caveat as a first charge in the Winnipeg Land Titles Office against those lands **provided that the said effective date occurs within twenty-four (24) months from the date that the said rezoning by-law is adopted by Council.**

X. The Plan of Subdivision shall be approved and signed by the Director of Planning, Property and Development within two (2) years of the date of passage of the aforementioned by-law.

XI. In the event that the necessary City of Winnipeg mylar approval signatures have not been secured within 24 months after adoption of the by-law, the matter shall be deemed to be concluded and shall not be proceeded with unless Council extends that time.

Yours truly,

C. Knoll
Manager of Planning and Land Use

_____

Per: Ross Mitchell, Senior Planner
(City Centre and Assiniboia Communities)
986-5017

/jc

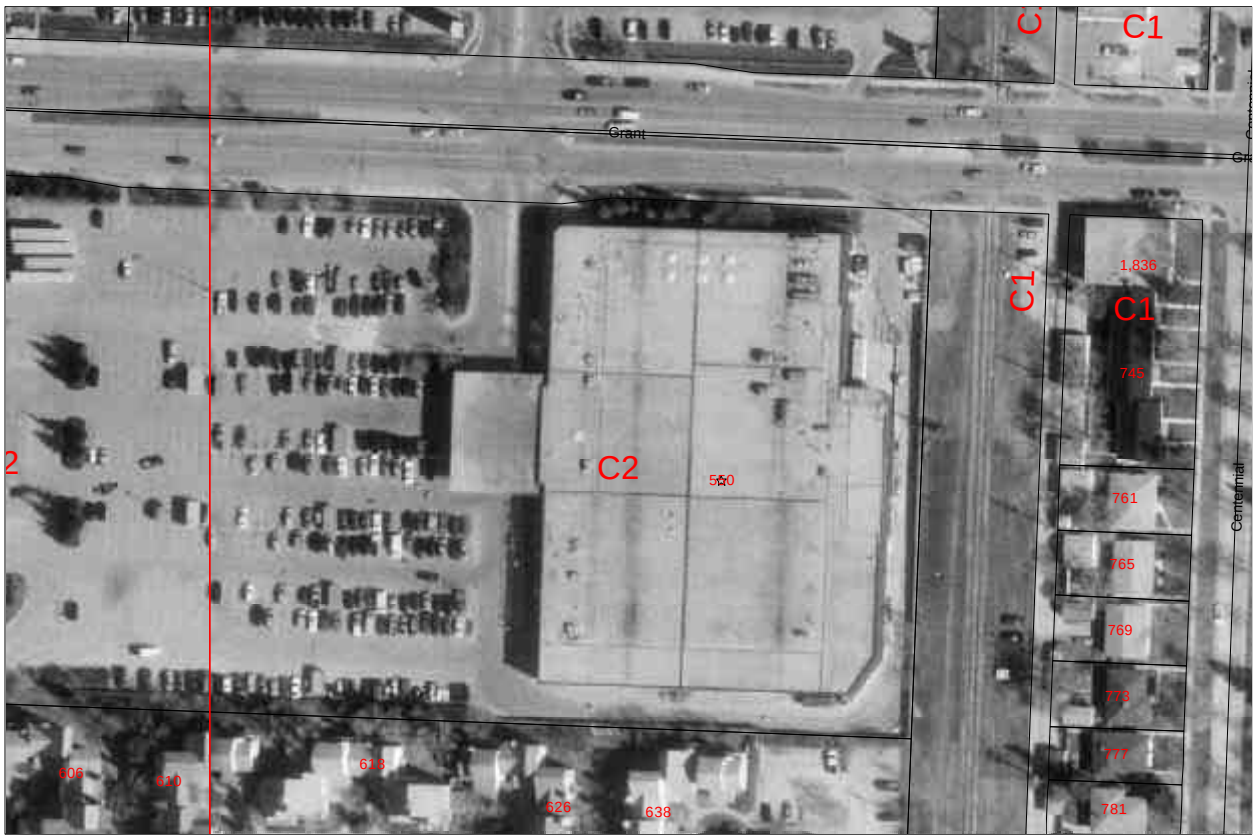


Figure 1: Aerial View of Site

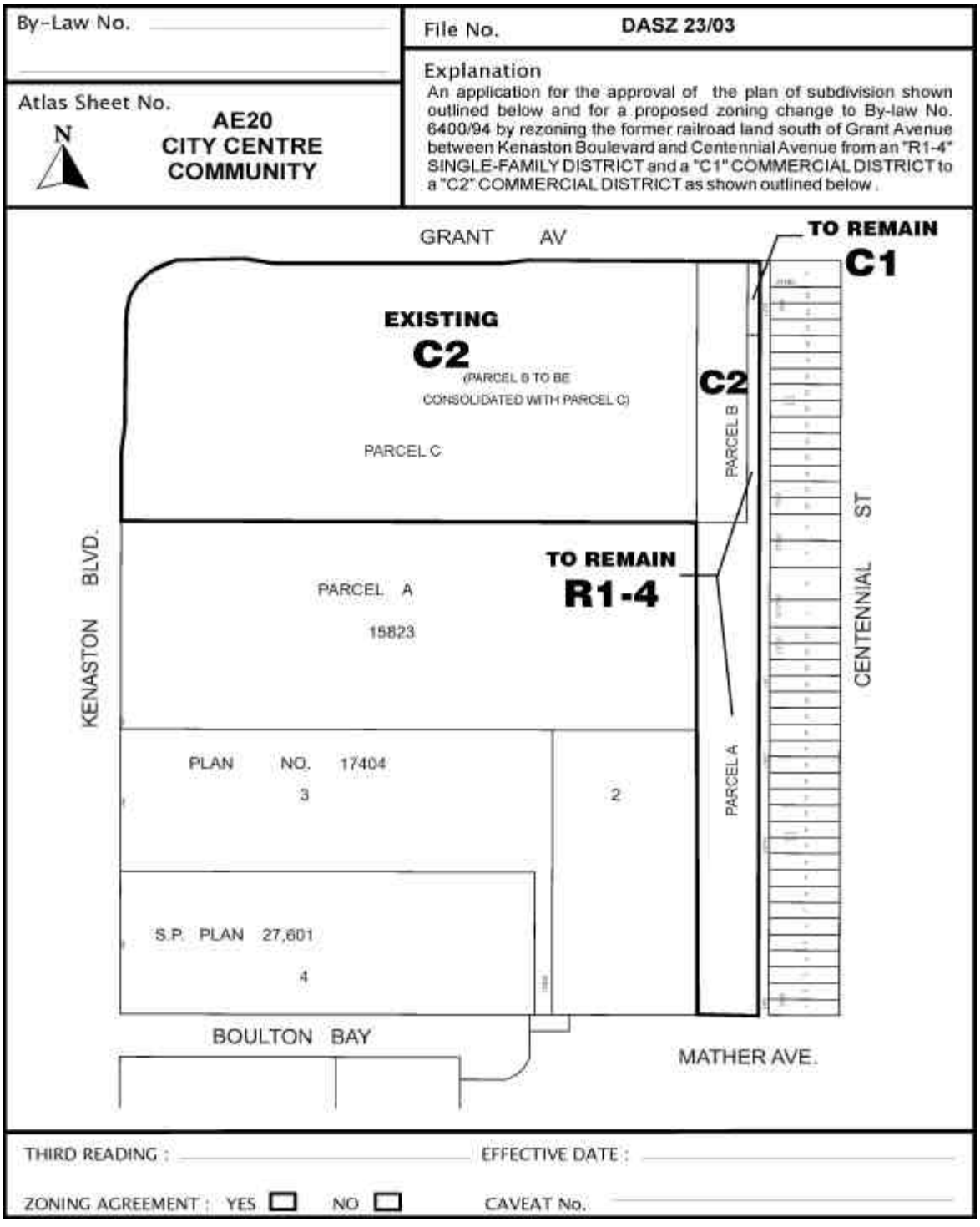


Figure 2: Schedule "A" to the report to the City Centre Community Committee for file No. DASZ 23/03, dated October 28, 2003.